

REQUEST FOR INTERFERENCE WITH PATENT UNDER 37 C.F.R. §1.607

Applicant respectfully requests that an interference be declared between the application and US 6,110,146 to Berthiaume et al., issued August 29, 2000. Claims 85-90 have been copied from the Berthiaume patent and correspond to claims 1-6 of Berthiaume. With the submission of this Preliminary Amendment, the claims have been copied within one year of issuance of the Berthiaume patent.

Proposed Count:

A protective sleeve for a balloon dilatation catheter comprising:

an elongate member having a neck portion and a slit extending along the entire length of the tubular member from a proximal end to a distal end thereof, wherein a distal portion of the tubular member is flared from the neck portion to the distal end of the tubular member to define and enlarged funnel-like opening.

Claims of Patent corresponding to proposed count:

Claim 1 of Berthiaume corresponds to the proposed count verbatim. Claims 2-5 dependent thereon correspond to the proposed count. Claim 6 corresponds to the proposed count by including the protective sleeve of claim 1 and a balloon catheter.

1. A protective sleeve for a balloon dilatation catheter comprising:

an elongate member having a neck portion and a slit extending along the entire length of the tubular member from a proximal end to a distal end thereof, wherein a distal portion of the tubular member is flared from the neck portion to the distal end of the tubular member to define and enlarged funnel-like opening.

Claims of application pending in application within one year of patent issuance:

Claims 85-90 added above.

Correspondence of Claim 86-89, 90 to the Count:

Claims 86-89 are dependent claims from independent claim 85 listed above. Claim 90 refers in the protective sleeve from claim 86 and further includes a balloon catheter.

Application of Claims 85-90 to the Specification §1.607 (a)(5)

85. A protective sleeve for a balloon dilatation catheter comprising:

an elongate member having a neck portion and a slit extending along the entire length of the tubular member from a proximal end to a distal end thereof, wherein a distal portion of the tubular member is flared from the neck portion to the distal end of the tubular member to define and enlarged funnel-like opening.

85. A protective sleeve for a balloon dilatation catheter comprising:

an elongate member having a neck portion and a slit extending along the entire length of the tubular member from a proximal end to a distal end thereof, wherein a distal portion of the tubular member is flared from the neck portion to the distal end of the tubular member to define and enlarged funnel-like opening.

See Fig. 8, Page 13, lines 28 to page 14, line 4.

Outer sleeve balloon protector in the form of a polymeric tube 60 with flared proximal end 62, flared distal end 64 and longitudinal slit 37

86. A protective sleeve as defined in claim 85, wherein the slit extends along a plane that includes a longitudinal axis of the tubular member.

See Figure 8, element 37

87. A protective sleeve as defined in claim 85 wherein the slit is helical.

See Figs. 9c,g , page 14, lines 5-8 as a spiral sleeve 66

88. A protective sleeve as defined in claim 85 further comprising:
an outer sleeve disposed about those portions of the tubular member proximal of the flared distal portion, the outer sleeve being configured to maintain the slit of the tubular member in a closed configuration.

Page 14, lines 16 - 20 - may be used as an inner sleeve with any suitable outer sleeve

89. A protective sleeve as defined in claim 88 wherein the outer sleeve is elastomeric.

Page 15, line 5, the spiral sleeve will conform around all portions and compress them. Page 14, lines 13-14 - a preferred material for this balloon protector is LDPE

90. A balloon catheter and a protective sleeve for the balloon of the catheter comprising, in combination:

a catheter having a shaft and a balloon mounted thereon, wherein the shaft has a distal tip portion that extends distally beyond a distal extremity of the balloon; and

a protective sleeve as defined in claim 85, wherein a proximal portion of the sleeve is disposed about and encloses the balloon, the sleeve being mounted on the catheter to locate the distal tip portion of the catheter at the narrowest portion of the funnel defined by the flared distal portion of the tubular member whereby a guidewire backloaded through the flared distal portion will be guided into registry with the distal tip of the catheter shaft.

See Fig. 8, page 13, line 28 to page 14, line 4 - the balloon catheter has a balloon protector which allows the doctor to prep and introduce the guide wire without touching the balloon

See the support for claim 85

Prima Facie Showing of Entitlement to Judgment

The instant application is a continuation of US Application 09/528,613 filed March 20, 2000 was a divisional Application of 09/034,434 filed March 4, 1998 which was a

Continuation-In-Part application from 08/812,351 filed March 5, 1997, now U.S. Patent 5,893,868. U.S. 6,110,146 to Berthiaume was filed September 30, 1998. The instant application, therefore, predates Berthiaume in excess of 18 months. A copy of the Berthiaume patent accompanies this Preliminary Amendment. Moreover, the published PCT application WO 98/39056 on September 11, 1998 anticipates Berthiaume under 35 U.S.C. 102(b).

CONCLUSION

In light of the above comments, allowance of claims 85-90 is respectfully requested. It is further requested, as to claims 85-90 that an interference be declared and that priority of invention be adjudged to the instant Applicant.

Respectfully submitted,

Vidas, Arrett & Steinkraus, P.A.
Attorneys of Record

By: _____

Scott Q. Vidas
Attorney Reg. 30,812

Dated: December 14, 2000

Suite 2000
6109 Blue Circle Drive
Minnetonka, MN 55343-9185
Phone: (952) 563-3000
Facsimile: (952) 563-3001
F:\WPWORK\SQV\9611-AMD.C12